



**MILPITAS CITY COUNCIL MEETING AGENDA
NOVEMBER 21, 2006**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - 1) PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT**
(Pursuant to CA Government Code §54957) Title: City Manager
 - 2) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
(Pursuant to CA Government Code §54957.6) City Negotiator: Carmen Valdez
Employee Organizations: Milpitas Professional and Technical Group (ProTech),
Milpitas Mid Management/Confidential (LIUNA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Pursuant to CA Government Code §54956.9(a))
 - City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV0084002
 - Scott Sizar vs. the City of Milpitas, Case Nos. OAK – 0309775, OAK – 0219858
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code §54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Vice Mayor Gomez)**
- VI. APPROVAL OF MINUTES (November 7, 2006)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATION**

Seventh Annual Neighborhood Beautification Awards
- IX. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARING – Under Redevelopment Agency

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (November 7, 2006)

RA4. Approval of Agenda and Consent Calendar

PUBLIC HEARING (for Agenda Item RA5. Only)

RA5. Joint Public Hearing on the Proposed Merger Amendments for Redevelopment Project Area No. 1 and the Great Mall Redevelopment Project Area and Adoption Of Resolutions and Ordinances Associated with the Merger Amendment Approvals (Staff Contact: Diana Whitecar, 586-3059)

RA6. Receive Progress Report on Library and East Parking Garage, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)

RA7. Approval of the Amendments and Restatement of the Terrace Gardens Regulatory Agreement (Staff Contact: Felix Reliford, 586-3071)

***RA8. Resolution Granting Final Acceptance of the 2005 Americans with Disabilities Act (ADA) Sidewalk Ramps/Building Improvements, Projects No. 4226 and No. 8135 (Staff Contact: Andrew Brozyna, 586-3315)**

***RA9. Approve Contract Change Order with JJR Construction for Sidewalk Repair, Curbs & Gutters, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge 586-3403)**

***RA10. Authorize City Manager to Execute Contract Agreement with Vernazza Wolfe Associates, Inc. to Prepare the Housing Marketing Study (Staff Contact: Felix Reliford, 586-3071)**

RA11. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

*** 1. Approve Mayor's Recommendation for \$500 Donation to Curtner Elementary School 3rd Grade Class (Contact: Mayor Esteves, 586-3029)**

*** 2. Approve Mayor Esteves' Recommendations for Re-Appointment to City Commissions (Contact: Mayor Esteves, 586-3029)**

3. Discuss Recent Announcement of Oakland A's Proposed Move to Fremont (Contact: Councilmember Livengood, 586-3000)

Telecommunications Commission

*** 4. Approve Amendment to Bylaws Regarding Meeting Attendance for the Telecommunications Commission (Staff Contact: Eliren Pasion, 586-2730)**

XVII. NEW BUSINESS

5. Update the Status of the Transit Area Specific Plan (Staff Contact: Dennis Carrington, 586-3275)
- * 6. Approve City of Milpitas Standard Inclusion Policy (Staff Contact: Bonnie Greiner, 586-3227)
- * 7. Authorize Budget Transfer for Teen Center Purchases (Staff Contact: Samu Tiumalu, 586-3222)

XVIII. RESOLUTIONS

- * 8. Adopt Resolution Granting Initial Acceptance: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Andrew Brozyna, 586-3315)
- * 9. Adopt Resolution Granting Initial Acceptance: 2006 Street Slurry Seal Project, Project No. 4229 (Staff Contact: Andrew Brozyna, 586-3315)

XIX. BIDS AND CONTRACTS

10. Award Construction Contract: Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)
- * 11. Review Tiered Water Rates and Approve Consultant Agreement with Bartle Wells Associates for Proposition 218 Utility Rate Study (Staff Contact: Marilyn Nickel, 586-3347)

XX. ADJOURNMENT - TO WEDNESDAY, NOVEMBER 29, 2006 AT 6:00 P.M.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, DECEMBER 5, 2006, AT 7:00 P.M.**

YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, KNOW boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:
Economic Development Commission (Hotel Rep)
Mobile Home Park Rental Review Board
Planning Commission
Recycling and Source Reduction Advisory Commission (alternate)
Sister Cities Commission (alternate)

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers.
Contact the City Clerk's office (586-3003) for information.

AGENDA REPORTS

IX. PRESENTATION

Seventh Annual Neighborhood Beautification Awards

Building a Sense of Community

Winner: Peggy Horyza – St. John the Baptist Church and School

Attractive Non-Residential

Winner: Peggy Horyza- St. John the Baptist Church and School

Staff Choice Award

Winner: Mark B. Ligon and Craig Fuller- 325 N. Park Victoria Drive

Central Area

Attractive Residential

Winner: Syed and Asiya Asif – 812 Canada Drive

Nomination

Efren Partida – 508 Singley Drive

Attractive Multi-Family Units

Winner: Dimtrey Tadeney- 120 Dixon Road, Space 73

Nomination

Gary Taylor- 120 Dixon Road, Space 74

Attractive Homeowners Associations

Winner: Rueben Baltazar- Foothill Square - 971 Sandalridge Court

Nomination

Mr. & Mrs. Huang – Beresford - 278 Woodward Drive

Hillside Area

Attractive Residential

Winner: Ken and Lydia Burke – 1133 N. Park Victoria Drive

Nomination

Mr. & Mrs. Mujtaba - 2237 N. Park Victoria Drive

Attractive Homeowners Association

Winner: Gerald and Sharon Fedor – Summit Pointe- 1627 Pebble Beach Court

East Valley Floor Area

Attractive Residential

Winner: Gustavo and Maria Soria – 97 Park Hill Drive

Nominations

Javier Rodriguez - 201 N. Park Victoria Drive

Hai (Heidi) Pham – 1278 Traughber St.

Attractive Multi-Family Units

Winner: Nicolas and Elva Tenzing – 1311 Chewpon Avenue

Nomination

Mai Rafe – 1289 Chewpon Avenue

Attractive Homeowners Associations

Winner: Yan Xu and Ziyang Liu – Hill Crest Villas -2320 Farmcrest Street

West Area

Attractive Residential

Winner: Donna and Pham Khoung – 822 Calero Street

Nominations

Orfil and Martha Garcia – 667 Lexington Street

Bill and Liz Deaver - 210 Butler Street

Attractive Multi-Family Units

Winner: Quynh Vu and Thi Pham – 1691 Starlite

Attractive Homeowners Association

Winner: William Le - Starlite Pines - 1604 Fallen Leaf Drive

Nomination

Dennis and Linda Graham- Starlite Pines - 1592 Fallen Leaf Drive

XIV. PUBLIC HEARING – Under Redevelopment Agency

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

PUBLIC HEARING (for agenda Item RA5. only)

RA5. Joint Public Hearing on the Proposed Merger Amendments for Redevelopment Project Area No. 1 and the Great Mall Redevelopment Project Area; Certifications of Final Supplemental Environmental Impact Report, Adoption of Related Resolutions, and Introduction of Ordinances (Staff Contact: Diana Whitecar, 586-3059)

Background: Pursuant to California Community Redevelopment Law (CRL), the City Council and the Redevelopment Agency have determined to hold a combined or “joint” public hearing to consider the adoption of the proposed amendments to merge Redevelopment Project Area No. 1 and the Great Mall Redevelopment Project Area. The merger is proposed to create a framework to permit businesses within both project areas to advertise on existing and new freeway signs along both the I-680 and I-880 corridors. In addition, the proposed merger will permit tax increment funds generated in Project Area No. 1 to be spent for improvements in the Great Mall Project Area.

The Redevelopment Plan for Project Area No. 1 has been amended ten (10) times since creation of the Project Area in 1976, and the Great Mall Redevelopment Plan for the Great Mall Project Area has been amended three (3) times since its inception in 1993. The proposed Merger Amendments will allow the existing Great Mall freeway signs to be reconstructed and will permit them to display advertising for businesses within both project areas. The proposed amendments will also permit the construction of up to three (3) new freeway signs along freeway corridors in Project Area No. 1 that may include advertising not only for Project Area No. 1 businesses but also the Great Mall Shopping Center and businesses located at the Center. The proposed signs, and modifications to existing signs, will require Planning Commission, City Council and Redevelopment Agency approval of sign ordinance amendments and appropriate planning entitlements at future public meetings.

Through the course of the public hearing, the City Council/Redevelopment Agency (Council/Agency) will be presented with documentation and facts that will allow the Council/Agency to make certain findings that are necessary for the adoption of the Merger Amendments. The

majority of the documents are contained in the Joint Public Hearing Binder and includes the Report to the City Council (a report prepared in accordance with the Health and Safety Code Section 33352 that includes a financial feasibility analysis), the Draft and Final Environmental Impact Reports, the proposed Amendments to the Redevelopment Plans for both Project Area No. 1 and the Great Mall, certifications and affidavits of mailings, the proposed ordinances that would effect the merger, and various resolutions.

State law requires that the Council/Agency follow certain procedures, some of them formal, in the conduct of the Joint Public Hearing. The Public Hearing has been noticed in accordance with the CRL: notices have been mailed by first class mail to all residents, property owners, businesses and tenants within the two redevelopment project areas; notices have been mailed, certified/return receipt requested to the affected taxing entities; and a notice has been published in the Milpitas Post for five consecutive weeks prior to the Public Hearing.

Two community meetings were held on the proposed Merger Amendments. The first meeting, held at the Community Center on October 18th, was advertised in the Milpitas Post and on the City's website, but there were no attendees at the meeting. The second meeting, held on November 1st, was advertised in the first class mailing noted above, on the City's website and in the Milpitas Post. A total of 21 individuals attended the November 1st community meeting. The meeting summaries are included in the Joint Public Hearing Binder. No objections to the proposed amendments have been received. Comments at the public November 1st public meeting included a recommendation that new electronic or digital message board signs not be placed within a specified distance of residential neighborhoods. Those speaking to this item did not offer a specific distance and asked that "common sense" be used in the location of future signs. Other comments included questions on the impact of the proposed amendments on eminent domain and the proposed Transit Area Plan. It should be noted that the proposed amendments and merger have no effect on the Agency's eminent domain authority.

Conclusion:

To date there have been no objections to the proposed Merger Amendments from affected taxing entities, property owners, business owners or tenants within the two Milpitas Redevelopment Project Areas. Therefore, staff recommends that the Council/Agency open the public hearing, take testimony, close the public hearing, adopt the following resolutions and introduce the Merger Amendment ordinances.

Recommendations:

1. Open the Public Hearing on the proposed merger of Redevelopment Project Area No. 1 and the Great Mall Project Area.
2. Close the Public Hearing.
3. Adopt a Resolution of the Redevelopment Agency Certifying the Final Supplemental Environmental Impact Report on the Proposed Merger of the Milpitas Redevelopment Project Area No. 1 and the Great Mall Redevelopment Area, and adopting Mitigation Findings, Findings Regarding Alternatives, a Statement of Overriding Considerations and a Mitigation, Monitoring and Reporting Program.
4. Adopt a Resolution of the Redevelopment Agency Approving the Redevelopment Plan Amendments to Merge the Milpitas Redevelopment Project Area No. 1 and the Great Mall Redevelopment Project Area.
5. Adopt a Resolution of the City Council Adopting Mitigation Findings, Findings Regarding Alternatives, a Statement of Overriding Considerations, and a Mitigation, Monitoring and Reporting Program for the Proposed Merger of the Milpitas Redevelopment Plan for Redevelopment Project Area No. 1 and Great Mall Project Area.
6. Waive the first reading beyond the title and introduce Ordinance No. 192.18, Amending the Redevelopment Plan for the Milpitas Redevelopment Project No. 1.
7. Waive the first reading beyond the title and introduce Ordinance No. 192.19, Amending the Redevelopment Plan for the Milpitas Great Mall Project.

8. Continue the joint meeting of the City Council and the Redevelopment Agency to Wednesday, November 29 at 6:00 p.m. (for second reading of the two proposed ordinances).

RA6. Receive Progress Report on Library and East Parking Garage, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)

Background: The Library Subcommittee met on October 24 and heard a progress report on the library, parking garage and associated N. Main Street development.

Library: The library project is currently in the bidding stage. A pre-bid meeting was held on November 14, 2006 at the site. Bids are due on December 12, 2006.

Parking Garage: Contractor Devcon Construction, Inc. completed all production and ground improvement piles and has begun installing pile caps, tie-beams and building utilities. Staff will present additional detailed information on these projects at the Council meeting.

Recommendation: Receive the progress report on the Library and Parking Garage.

RA7. Approval of the Amendments and Restatement of the Terrace Gardens Regulatory Agreement (Staff Contact: Felix Reliford, 586-3071)

Background: On November 17, 1987, the Milpitas Redevelopment Agency and Terrace Gardens, Inc. entered into a Regulatory Agreement, which established the guidelines for governing the 150-unit affordable senior housing project. Since that time period, the Regulatory Agreement has not been amended or revised to accurately reflect the current fiscal realities or housing market conditions that are applicable to the senior housing project.

At its meeting on July 27, 2006, Terrace Gardens Board of Directors approved several amendments to the Regulatory Agreement and forwarded its recommendations to the City Council/Redevelopment Agency. Prior to forwarding its recommendations to the City Council/Redevelopment Agency, the Board of Directors conducted a financial audit report in regards to the assessment of the facility operating costs, reserves for replacements, sufficient rents and determination of adequate reserves to support the total operations of the senior housing facility. From 1989 to 2006, the average rents at Terrace Gardens have increased by 55% (\$348 to \$542), whereas the expenses to operate the facility have increased by 115% over the same time period. This increase does not include the food income expenses, which has run a three-year deficit exceeding \$250,000. The Terrace Gardens Board of Directors felt that the proposed amendments to the Regulatory Agreement would allow Terrace Gardens the ability to operate the senior housing facility on a more stable financial basis.

The majority of the proposed amendments to the Regulatory Agreement are minor in nature to provide a greater clarification to the provisions in the agreement. However, the proposed amendments also include a revised rent structure (increases range from \$10-\$32/per month) to enable the project to remain fiscally sound.

Clarifying amendments to the existing Regulatory Agreement include resolution of the following issues:

- Does not set forth criteria for determination of adequate reserves;
- Does not provide mechanism to establish rents sufficient to support operating budget;
- Does not factor in the mandatory meals (\$174/per month); and
- Does not take into account the changing housing market conditions over the last 19 years.

The proposed amendments to the Regulatory Agreement will:

- Require the Board of Directors to establish adequate reserve funding through periodic capital needs assessments or reserve funding;

- Link the annual operating budget with necessary reserve funding;
- Establish and protect permanent affordability criteria based on the Low-Income House Tax Credit Model (same as DeVries Place) and establishes the methodology;
- Establish affordable rents based on:
 - 111 of the residential units (75%) to be affordable to individuals and senior households at or below 50% of the Area Media Income (Very-Low Income)
 - 37 of the residential units (25%) to be affordable to individuals and senior households at or below 30% of Area Median Income (Extremely Low-Income)
- Make minor amendments to the Regulatory Agreement for greater clarification, such as: 1) compliance with the law, 2) insurance coverage, 3) replacement reserve and contingency account, and 4) tenant preferences.

Mari Tustin, Senior Vice President of The John Stewart Company, will be presenting the proposed new rent structure in detail to the Council/Agency.

City staff including the City Attorney has reviewed the proposed amendments to the Regulatory Agreement and 1) based on the need to amend the Regulatory Agreement to ensure the long-term financial stability of Terrace Gardens, 2) the need to establish and protect permanent affordability restrictions, and 3) given that the proposed rent increases appear to be reasonable, staff recommends approval of the amendments and the restatement of the regulatory agreement.

Included in the City Council/Redevelopment Agency's agenda packet is a copy of the amended Regulatory Agreement and background information.

Recommendation: Approve the amendments and the restatement of the Regulatory Agreement with Terrace Gardens.

***RA8. Resolution Granting Final Acceptance of the 2005 Americans with Disabilities Act (ADA) Sidewalk Ramps/Building Improvements, Projects No. 4226 and No. 8135 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project, which was initially accepted on November 1, 2005, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include installation of sidewalk ramps, sidewalks, pavement delineation and replacement of two fire station driveways. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

Recommendation: Adopt Resolution granting final acceptance of Projects No. 4226 and No. 8135, and release the contractor's bond.

***RA9. Approve Contract Change Order with JJR Construction for Sidewalk Repair, Curbs & Gutters, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge 586-3403)**

Background: On August 16, 2005, the City Council/Redevelopment Agency awarded the construction contract for this project to JJR Construction. The project provides on call services for sidewalk replacement throughout the City.

Within the North Main Street development projects, there are occasional needs for miscellaneous construction services such as replacement, relocation and maintenance of fences, installation and maintenance of temporary signage, installation and maintenance of required Storm Water Pollution Prevention measures and Best Management Practices for erosion protection, of the library and parking garage sites, building weather protection, and temporary road and driveway safety measures. Staff recommends providing these services by amending the existing JJR Construction contract. A construction change order for this work would be charged to the appropriate project, with a total time and materials amount not to exceed \$40,000 to perform on-call services as needed in the areas of the North Main Street development. There are sufficient funds in the project budgets for the library and the garage for this purpose.

Recommendation: Approve a contract change order with JJR Construction in the amount of \$40,000 for general construction services for Project Nos. 8161 and No. 8162.

***RA10. Authorize City Manager to Execute Contract Agreement with Vernazza Wolfe Associates, Inc. to Prepare the Housing Marketing Study (Staff Contact: Felix Reliford, 586-3071)**

Background: At its meeting on April 18, 2006, the City Council approved the authorization to send out Request for Proposals (RFPs) for the preparation of the state-mandated Housing Element. The Housing Element was previously due to the State of California, Department of Housing and Community Development (HCD) on June 30, 2007. However, since that time period, Association of Bay Area Governments (ABAG) and HCD agreed to extend the Bay Area cities and counties housing element deadline to June 30, 2009. ABAG receives funding through the State of California to prepare the Regional Housing Needs Determination (RHND), which is required by the state housing element law.

Part of the comprehensive preparation of the Housing Element Request for Proposal was going to include a Housing Marketing Study. However, since the housing element has been delayed for more than two years, the Council directed staff to proceed with the Housing Marketing Study.

The Housing Marketing Study will address the following:

- Housing market conditions (existing and future),
- Land analysis to support housing conditions,
- Supply and demand of housing types,
- Characteristics of the Milpitas housing market,
- Land use fiscal analysis, and
- Need and demand for executive level home within the City.

Requests for proposals (RFP) for the Housing Marketing Study were sent out in June 2006, with a very limited number of responses. Staff reopened the RFP process with a new closing date of September 29, 2006. On October 26, 2006, the Economic Development Manager, Planning and Neighborhood Services Director and Principal Housing Planner conducted interviews and recommends the consulting firm of Vernazza Wolfe Associates, Inc. to prepare the Milpitas Housing Marketing Study. Upon completion of the interviewing process, staff and the consultant agreed to revise the scope of work in the RFP to provide a two-tier approach: 1) detail assessment of the market for executive luxury style housing in Milpitas and 2) comprehensive assessment and analysis of the overall housing market.

The proposed cost of the executive housing analysis is \$34,975 and the housing marketing study is \$42,240. The total costs of the two-tier Housing Marketing Study is \$77,215. Sufficient funds are available in the Redevelopment Agency 20% Low-Income Housing Set Aside Funds. It is anticipated that the Housing Marketing Study will be completed in June 2007 with a presentation to the City Council. Included in the Council/Redevelopment Agency's agenda packet is the revised scope of work for the Housing Marketing Study and contract agreement.

Recommendation: Approve the contract agreement with Vernazza Wolfe Associates, Inc. to prepare the Housing Marketing Study in an amount not-to-exceed \$77,215 from the Redevelopment Agency 20% Low-Income Housing Set Aside Funds.

RA11. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 1. **Approve Mayor's Recommendation for \$500 Donation to Curtner Elementary School 3rd Grade Class (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves received a request for a donation from Rachel Decker, a third grade teacher at Curtner Elementary School in Milpitas.

City Council is requested to consider the Mayor's recommendation to support the class walk-a-thon event in the amount of \$500. The fundraising event by the school is intended to raise money for field trips and computer upgrades.

Funding may be approved from the City Council Community Promotions Unallocated budget line item. Current balance in that fund is \$3,740.00.

Recommendation: Approve the Mayor's recommendation of a donation in the amount of \$500 to Curtner Elementary School Walk-a-thon.

- * 2. **Approve Mayor Esteves' Recommendations for Re-Appointment to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be re-appointed to Commissions as noted below:

Arts Commission

Re-appoint Richard Tsuei to Alternate No. 1 to a term that expires in October 2008.

Recycling and Source Reduction Advisory Commission

Appoint Hong Chen (current Alternate No. 1) to a regular term that expires in October 2009.

Appoint John Cimino (current Alternate No. 2), as the institutional representative voting member, to a term that expires in October 2009.

Sister Cities Commission

Re-appoint Massoud Arefi to a term that expires in September 2009.

Recommendation: Move to approve the Mayor's recommended Commission appointments.

3. **Discuss Recent Announcement of Oakland A's Proposed Move to Fremont (Contact: Councilmember Livengood, 586-3000)**

Background: The City of Fremont and the Oakland Athletics baseball organization have entered into serious negotiations to possibly construct a new baseball stadium and ancillary developments, including retail and housing, in southern Fremont. The location is very close to the City of Milpitas. These intensive developments offer both potential benefits and drawbacks for Milpitas.

Councilmember Livengood is suggesting that the City of Milpitas begin preliminary discussions with the City of Fremont in order to have a clear understanding of the development and its potential impacts.

Recommendation: Authorize Milpitas staff and elected officials to begin preliminary discussions with the City of Fremont to clarify its plans for a new Oakland A's stadium in southern Fremont.

Telecommunications Commission

- * 4. **Approve Amendment Bylaws Regarding Meeting Attendance for the Telecommunications Commission (Staff Contact: Eliren Pasion, 586-2730)**

Background: The Telecommunications Commission has requested to improve its attendance by adding Bylaws language that addresses the Commissioners' meeting attendance. The Commission is proposing the following language be added to its Bylaws.

Section 12. Attendance. A total of three consecutive or six total unexcused absences in a calendar year may warrant a formal notification and review of participation on the Commission.

Recommendation: Approve the amendment to the Telecommunications Commission Bylaws regarding attendance, Section 12.

XVII. NEW BUSINESS

5. Update the Status of the Transit Area Specific Plan (Staff Contact: Dennis Carrington, 586-3275)

Background: On May 26, 2006, the City Council selected the Draft Preferred Plan for the Transit Area Specific Plan. That plan shows 7,185 residences, 813,343 square feet of new office, 175,500 square feet of new hotel use and 520,026 square feet of new retail. Staff and the consultant Dyett & Bhatia have been meeting regularly to coordinate work on the Plan. A stakeholders workshop was held on September 7, 2006, to discuss development issues and potential environmental impacts, potential designs for the McCandless area, and next steps in the process including the preparation of the Specific Plan, Draft EIR and development/zoning regulations and a timeline for adoption in the Spring of 2007.

The purpose of this update is to inform the City Council of progress to date on the preparation of the Specific Plan and Draft Environmental Impact Report (EIR). Presentations will be made by Leslie Gould of Dyett & Bhatia, ERA Associates on fiscal issues and Field Paoli Architects on design issues.

Recommendation: Receive report on status of the Transit Area Specific Plan.

*** 6. Approve City of Milpitas Standard Inclusion Policy (Staff Contact: Bonnie Greiner, 586-3227)**

Background: In an effort to standardize and provide reasonable accommodations, the attached inclusion policy was developed at staff's request by the City Attorney. The inclusion policy is concerning people with disabilities in the programs and services related to the Parks and Recreation Services Department.

Recommendation: Approve Parks and Recreation Inclusion Policy for People with Disabilities as standard procedure.

*** 7. Authorize Budget Transfer for Teen Center Purchases (Staff Contact: Samu Tiumalu, 586-3222)**

Background: The Milpitas Teen Center has generated over \$8,000 in donations and event entrance fees over the past year. Staff would like to transfer \$4,444 from the Teen Center Holding Account to the Teen Center's operating budget to purchase new furniture and roller shades for the windows at the Teen Center.

Recommendation: Authorize budget transfer of \$4,444 to the Teen Center's operating budget.

XVIII. RESOLUTIONS

*** 8. Adopt Resolution Granting Initial Acceptance: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project provided new asphalt pavement for South Park Victoria Drive (between Calaveras Blvd and Yosemite Dr) and on Calaveras Blvd (between Park Victoria Drive and I-680 on/off ramps east.). This work included a rubberized asphalt concrete overlay throughout the length of the project, localized full depth asphalt concrete repairs, cold planning, replacement of traffic detector loops, and installation of ADA compliant sidewalk ramps.

City Council awarded the project to O'Grady Paving, Inc. on April 18, 2006. The project has been successfully completed, and staff recommends Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$136,960.

Recommendation: Adopt resolution granting initial acceptance of Project No. 4225, subject to the one-year warranty period and reduction of the faithful performance bond to \$136,960.

* **9. Adopt Resolution Granting Initial Acceptance: 2006 Street Slurry Seal Project, Project No. 4229 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project included placing a slurry seal, making base repairs, and installing pavement delineation at various streets throughout the City. The City Council awarded the project to American Asphalt Repair and Resurfacing Company, Inc. on June 20, 2006. The project has been successfully completed, and staff recommends Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$15,872.10.

Recommendation: Adopt resolution granting initial acceptance of Project No. 4229, subject to the one-year warranty period and reduction of the faithful performance bond to \$15,872.10.

XIX. BIDS AND CONTRACTS

10. Award Construction Contract: Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)

Background: On September 21, 2006, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. The project provides for construction of a new underground wet well with submersible pumps and inline grinders. A new control building with electrical room, site grading, drainage improvements and lighting. The work will include concrete work, asphalt paving, electrical, mechanical, and piping. The Engineer's estimate for the work was between \$8 and \$10 million dollars. Two pre-bid meetings were scheduled in October.

The project was advertised and bids were received. There was a bid opening on November 15, 2006. In order to save time, bid results will be reported at the November 21st City Council meeting. Funds are available in the project budget for this work.

Recommendation: Award construction contract for Main Sewage Pump Station to the lowest responsible bidder, based on bid results reported at Council meeting.

* **11. Review Tiered Water Rates and Approve Consultant Agreement with Bartle Wells Associates for Proposition 218 Utility Rate Study (Staff Contact: Marilyn Nickel, 586-3347)**

Background: At the request of the City Council at its June 20 meeting, the Utility Rate Subcommittee met on August 8 and September 26 to review tiered water rate options. Key water use statistics include:

- Average residential use has dropped from 26 units to 23 units bimonthly

- The first tier of 20 units is discounted 30% to provide a lifeline and encourage conservation
- 74% of the residential water volume falls into the existing first tier of 20 units
- 96% of the residential water volume would fall into a suggested first tier of 50 units; which in essence would require a uniform rate without discount and no incentive to conserve water.
- 85% of customers pay less with the existing two-tier system compared to a single rate
- Future residential growth will be high-density housing; expect all new volume to fall into first tier
- City could lose revenue with larger first tiers; \$0.9 million (loss) with 30 units, \$1.1 million (loss) with 40 units and \$1.2 million (loss) with 50 units
- Some water retailers charge a uniform rate; no tier discounted system
- Other cities' discounted first tier ranges from 6 units to 14 units, Milpitas is at 20 units.

Due to a recent court case regarding Proposition 218 and utility rates, staff is recommending a utility rate study to evaluate the City's current water, recycled water, and wastewater rate structures for compliance with Proposition 218. This evaluation will include consideration of alternative rate structures, lifeline requirements, water conservation needs to accommodate future growth, and balancing accounts to manage variable expenses such as capital improvement programs and wholesale rates. A Request for Proposal (RFP) was sent out on October 16, 2006 to prospective consultants and posted on the City's website. Staff received two proposals and held interviews to select the most qualified consultant.

Staff has negotiated a scope of work with Bartle Wells Associates, a not-to-exceed amount of \$40,435, based on time and materials. Bartle Wells Associates developed the City's 2003 Financial Utility Master Plan and is experienced in this work. Staff recommends a budget appropriation from the Water, Recycled Water, and Wastewater Funds to cover the cost of this work.

Recommendations:

1. Appropriate funds from the Water, Recycled Water, and Wastewater Fund.
2. Authorize the City Manager to execute the consultant agreement with Bartle Wells Associates, subject to approval as to form by the City Attorney.

XX. ADJOURNMENT - TO WEDNESDAY, NOVEMBER 29, 2006 AT 6:00 P.M.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, DECEMBER 5, 2006, AT 7:00 P.M.**